

LCQ6: Safeguarding employment priority for local workers

Following is a question by the Hon Chan Hak-kan and a reply by the Secretary for Labour and Welfare, Mr Chris Sun, in the Legislative Council today (June 18):

Question:

The number of imported workers approved under the Enhanced Supplementary Labour Scheme (ESLS) has exceeded 50 000 to date. On the other hand, the latest unemployment rate announced by the Government is 3.4 per cent, the highest in 27 months. Regarding the safeguarding of the employment priority for local workers, will the Government inform this Council:

(1) as it has been reported that some applicant enterprises have set unreasonable criteria to exclude local applicants when conducting local recruitment under ESLS, of the number of complaints or reports involving non-compliant local recruitment procedures in the past three years and, among them, the number of substantiated cases and the relevant penalties; of the mechanism in place for proactively reviewing the reasonableness of such recruitment criteria;

(2) as it has been reported that since ESLS requires enterprises to maintain a manning ratio of imported labour to local labour of no less than 1:2, some enterprises have employed local workers on a part-time basis or arranged for imported workers to take up positions inconsistent with those they applied for, whether the Government has looked into such situations; and

(3) of the number of illegal workers arrested in the past three years, together with a breakdown by the trade in which they were engaged; whether it has assessed if the existing penal measures against employers of illegal workers and the intermediaries concerned have sufficient deterrent effect?

Reply:

President,

To cope with the challenges brought by manpower shortage and on the premise of ensuring employment priority for local workers, the Government has enhanced the mechanism for importation of labour. Apart from launching sector-specific labour importation schemes for the construction sector, transport sector, and residential care homes for the elderly and residential care homes for persons with disabilities, the Labour Department (LD) has implemented the Enhanced Supplementary Labour Scheme (ESLS) since September 4, 2023 to suspend the general exclusion of the 26 job categories as well as unskilled or low-skilled posts from labour importation under the previous Supplementary Labour Scheme for two years.

In consultation with the Security Bureau, the reply to the Member's question is as follows:

(1) The LD has all along been stringently processing each application under ESLS. Applicant employers must undertake a four-week local recruitment exercise and accord priority to employing suitable local workers to fill the job vacancies. The LD will review and ascertain the employment terms, including the entry and academic qualification requirements, monthly salary and hours of work of all job vacancies posted by employers during the local recruitment. Employers taking on local job seekers through any recruitment channels during the local recruitment shall offer them employment terms no less favourable than those agreed by the LD.

Upon completion of the local recruitment procedures, employers shall report the results to the LD and submit recruitment advertisements for verification. The LD will contact each of the local job seekers who is not employed by the employers, and assess whether the employers have sincerity in recruiting local workers. If there is evidence showing that an employer has violated the requirements of local recruitment, or refused to employ qualified local job seekers without reasonable reasons, the LD will impose administrative sanction of terminating the processing of the application submitted by the concerned employer for importation of labour, and refusing to process other applications submitted by the employer in the following year. Since the implementation of ESLS, the LD has not detected any employer who has violated the requirements of local recruitment or received relevant complaint from job seekers.

(2) To safeguard the employment opportunities of local workers, ESLS requires relevant employers to meet the manning ratio requirement of full-time local employees to imported workers of 2:1 on a continuous basis. Full-time employees refer to local employees who are directly employed by an employer and work not less than 35 hours per week for operating the relevant business, excluding part-time staff, staff of sub-contractor(s) or self-employed person(s) providing services to the employer. At the same time, the employer shall not displace local workers in employ with imported workers. In the event of redundancy, imported workers should be retrenched first. To ensure that employers will not displace local workers in employ with imported workers, the LD has set up a dedicated hotline of 2150 6363. I appeal to employees who suspect that they have been dismissed owing to the employment of imported workers to call the hotline. The LD will follow up the complaints seriously. If substantiated, the LD will impose administrative sanction on the concerned employers, including withdrawal of approvals for importation of labour previously granted and refusal to process other applications submitted by the employers in the following two years.

Besides, imported workers under ESLS must be employed under the Standard Employment Contract (SEC) prescribed by the Government, and shall perform specified duties for the specified job at the specific workplace(s) stipulated in the SEC.

Labour Inspectors of the LD inspect workplaces of imported workers under

ESLS from time to time to check whether employers have complied with the Employment Ordinance and the requirements of ESLS, and require employers to report information on full-time local employees and imported workers as well as the relevant manning ratios. If an employer violates the relevant requirements, including failing to meet the manning ratio requirement or arranging imported workers to perform duties other than those stipulated in SEC, the LD will impose administrative sanction on the employer, including withdrawal of approvals for importation of labour previously granted to the employer and refusal to process other applications submitted by the employer for up to two years.

(3) Engaging in illegal employment is a serious offence. Employers, illegal workers as well as aiders and abettors of illegal employment will be liable to prosecution in accordance with the Immigration Ordinance (IO). The IO stipulates different provisions targeting relevant offences committed by different groups of people. Visitors, illegal immigrants, overstayers, etc, are prohibited from taking up any employment, whether paid or unpaid, or establishing or joining any business. Aiders and abettors are liable to the same penalties. In addition, the Government amended the IO in 2021 to increase the penalty on employers of illegal workers, with the maximum penalty significantly increased from a fine of \$350,000 and three years' imprisonment to a fine of \$500,000 and 10 years' imprisonment with a view to reflecting the gravity of such offences. Besides, any person who takes up any employment, whether paid or unpaid, in contravention of a condition of stay shall be guilty of an offence. Upon conviction, he/she is liable to a maximum fine of \$50,000 and up to two years' imprisonment. In addition, if local employment agencies or their persons in relation are convicted of breaches of the IO, the LD may consider revoking or refusing the renewal of license for the concerned employment agencies. If the concerned persons apply for operating other employment agencies in future, the LD may also consider rejecting the issue of license.

The Government is committed to combatting illegal employment, with a view to protecting the job opportunities for the local workforce. Relevant law enforcement agencies will, depending on operational needs, risk assessment and other considerations, flexibly arrange sufficient manpower to continuously conduct intelligence-led operations. When necessary, they will conduct joint operations to rigorously combat crimes related to illegal employment.

According to the records of the Immigration Department, there were respectively 886, 1 304 and 1 268 illegal workers arrested each year during 2022 to 2024. 506 illegal workers were arrested during January to May 2025. The illegal workers arrested were mainly engaged in work related to the catering, construction, cleaning, or retail and wholesale industries.